

§ 10.3

20 CFR Ch. I (4–1–98 Edition)

shall, therefore, except as is otherwise provided by law have the exclusive authority for the administration, implementation, and enforcement of the provisions of this chapter.

(b) In the case of employees of the Panama Canal Commission, the Federal Employees' Compensation Act is administered by the Panama Canal Commission and inquiries pertaining to such coverage should be directed to that Commission.

[40 FR 6877, Feb. 14, 1975, as amended at 52 FR 10503, Apr. 1, 1987]

§ 10.3 Purpose and scope of this part.

(a) This part 10 sets forth the rules applicable to the filing, processing, and payment of claims for workers' compensation benefits under the provisions of the Federal Employees' Compensation Act, as amended. This part is applicable to all claims filed on or after November 6, 1974. The provisions of this part are intended to afford guidance and assistance to any person seeking compensation benefits under the Act, as well as to personnel within the Department of Labor and other agencies of the United States who are required to perform some function with respect to the administration of any provision of the Act or the processing of any claim filed under the Act.

(b) This subpart A describes generally the statutory and administrative framework governing the manner in which claims under the Act shall be processed, contains a statement of purpose and scope, together with provisions pertaining to definition and use of terms, the disclosure of program information, and other miscellaneous provisions relating to the administration of the Act.

(c) Subpart B of this part describes the procedure by which an individual claimant shall file a notice of injury and claim for benefits under the Act and further describes the administrative procedures applicable to the processing of each individual claim and the rules governing the termination and continuation of eligibility for benefits with respect to certain previously approved claims.

(d) Subpart C of this part describes special procedures applicable to the continuation of pay provisions con-

tained in 5 U.S.C. 8118 as amended by Pub. L. 93-416, 88 Stat. 1146.

(e) Subpart D of this part contains provisions relating to the procedures governing the payment of dollar benefits for disability or death and further contains additions to the compensation schedule mandated by the new paragraph 22 of 5 U.S.C. 8107(c), Pub. L. 93-416, 88 Stat. 1145.

(f) Subpart E of this part contains the rules governing an employee's rights to obtain medical evidence in support of such employee's claim and further contains information describing the rights of a beneficiary to medical benefits under the Act.

(g) Subpart F of this part is reserved.

(h) Subpart G of this part contains the rules governing the adjustment and recovery from a third person under 5 U.S.C. 8132.

(i) Subpart H of this part contains rules for particular groups of employees whose status requires special application of the provisions of the Act.

[40 FR 6877, Feb. 14, 1975, as amended at 52 FR 10503, Apr. 1, 1987]

§ 10.4 Applicability of other parts within this chapter.

This revised part 10 is applicable to part 25 of this chapter except as modified by part 25.

[52 FR 10503, Apr. 1, 1987]

§ 10.5 Definitions and use of terms.

(a) *Definitions.* For purposes of this subchapter except where the content clearly indicates otherwise, the following definitions apply:

(1) *The Act* means the Federal Employees' Compensation Act, 5 U.S.C. 8101 *et seq.*, as amended by Pub. L. 93-416 and as it may be hereafter amended.

(2) *Secretary* means the Secretary of the U.S. Department of Labor or a person authorized to perform his functions under the Act.

(3) *Department* means the U.S. Department of Labor.

(4) *Office* or *OWCP* means the Office of Workers Compensation Programs, Employment Standards Administration, of the Department.

(5) *Director* means the Director of OWCP or a person designated by him or

her to carry out his or her functions under the Act.

(6) *Benefits* or *Compensation* means the money paid or payable under the Act to the employee on account of loss of wages or loss of wage-earning capacity and to enumerated survivors on account of the employee's death, and includes any other benefits paid for from the Employee's Compensation Fund such as scheduled compensation under 5 U.S.C. 8107, medical diagnostic and treatment services supplied pursuant to the Act and this part, vocational rehabilitation services, additional money for services of an attendant or for vocational rehabilitation under 5 U.S.C. 8111, and funeral expenses under 5 U.S.C. 8134, but does not include continuation of pay as provided by 5 U.S.C. 8118.

(7) *Claim* means an assertion in writing of an individual's entitlement to benefits under or pursuant to the Act, submitted in a form and manner authorized by the provisions of this part.

(8) *Claimant* means an individual whose claim for entitlement to benefits under the Act has been filed in accordance with the Act and the provisions of this part.

(9) *Beneficiary* means an individual who is entitled to a benefit under the Act and this part.

(10) *Entitlement* means entitlement to benefits as determined pursuant to the provisions of the Act and the procedures set forth in this part. A beneficiary is entitled to benefits as so determined when the determination is final.

(11) *Employee* means:

(i) A civil officer or employee in any branch of the Government of the United States, including an officer or employee of an instrumentality wholly owned by the United States;

(ii) An individual rendering personal service to the United States similar to the service of a civil officer or employee of the United States, without pay or for nominal pay, when a statute authorizes the acceptance or use of the service, or authorizes payment of travel or other expenses of the individual;

(iii) An individual, other than an independent contractor or an individual employed by an independent contractor, employed on the Menominee

Indian Reservation in Wisconsin in operations conducted under a statute relating to tribal timber and logging operations on that reservation;

(iv) An individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838);

(v) An individual selected pursuant to chapter 121 of title 28 U.S. Code, and serving as a petit or grand juror;

(vi) Members of the Reserve Officers Training Corps;

(vii) Civil Air Patrol Volunteers;

(viii) Peace Corps Volunteers and volunteer leaders;

(ix) Job Corps enrollees;

(x) Youth Conservation Corps enrollees;

(xi) Volunteers in Service to America;

(xii) Members of the National Teachers Corps;

(xiii) Members of the Neighborhood Youth Corps;

(xiv) Student employees as defined in 5 U.S.C. 5351;

(xv) Employees of the Panama Canal Commission;

(xvi) Certain employees of the Alaska Railroad;

(xvii) Law enforcement officers not employees of the United States and Federal law enforcement officers who are pensioned or pensionable under sections 521-535 of title 4, District of Columbia Code;

(xviii) An individual covered under the provisions of section 105(e)(1) of Pub. L. 93-638 (Indian Self-Determination and Education Assistance Act of 1975); and,

(xix) Other persons performing service for the United States within the purview of the Act and all acts in amendment, substitution or extension thereof;

(xx) But does not include:

(A) A commissioned officer of the Regular Corps of the Public Health Service;

(B) A commissioned officer of the Reserve Corps of the Public Health Service on active duty;

(C) A commissioned officer of the National Oceanic and Atmospheric Administration.

(12) *Official superior* means officers and employees having responsibility

for the supervision, direction or control of employees, or other employees of the agency designated by the employing agency to carry out the responsibilities vested in the agency under the Act and this subpart.

(13) *Employing agency* or *agency* means any civil agency or instrumentality of the U.S. Government or any other organization, group or institution employing any individual defined as an “employee” by this section.

(14) *Injury* means a wound or condition of the body induced by accident or trauma, and includes a disease or illness proximately caused by the employment for which benefits are provided under the Act. The term “injury” includes damage to or destruction of medical braces, artificial limbs, and other prosthetic devices which shall be replaced or repaired; except that eyeglasses and hearing aids shall not be replaced, repaired, or otherwise compensated for, unless the damage or destruction is incident to a personal injury requiring medical services.

(15) *Traumatic injury* means a wound or other condition of the body caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. The injury must be caused by a specific event or incident or series of events or incidents within a single work day or work shift.

(16) *Occupational disease or illness* means a condition produced in the work environment over a period longer than a single workday or shift by such factors as systemic infection; continued or repeated stress or strain; or exposure to hazardous elements such as, but not limited to, toxins, poisons, fumes, noise, particulates, or radiation, or other continued or repeated conditions or factors of the work environment.

(17) *Disability* means the incapacity, because of employment injury, to earn the wages the employee was receiving at the time of injury.

(18) *Temporary aggravation* means that factors of employment have directly caused an underlying or pre-existing condition, disease or illness to be more severe for a definite limited period of time and thereafter leaves no

greater impairment than existed prior to the employment injury.

(19) *Impairment* means any anatomic or functional abnormality or loss. A permanent impairment is any such abnormality or loss after maximum medical improvement has been achieved.

(20) *Pay rate for compensation purposes* means the employee’s pay, as determined under section 8114 of the Act, at the time of injury, or at the time disability begins, or at the time compensable disability recurs if the recurrence begins more than 6 months after the injured employee resumes regular full-time employment with the United States, whichever is greater, except as otherwise determined under section 8113 of the Act with respect to any period.

(21) *Organ* means a part of the body that performs a special function, and for purposes of this part excludes the brain, heart and back.

(22) *United States Medical Officers and Hospitals* includes medical officers and hospitals of the Army, Navy, Air Force, Veterans Administration, and U.S. Public Health Service, and any other medical officers or hospitals designated as a U.S. medical officer or hospital by the Secretary.

(23) *Representative* means a person authorized by a claimant in writing to act for the claimant in connection with a claim or proceeding under the Act or this part. Where a claimant is physically or mentally incapable of making such a designation, it may be made by the claimant’s legal guardian.

(24) *Surviving spouse* means the husband or wife living with or dependent for support on a deceased employee at the time of his or her death, or living apart for reasonable cause or because of his or her desertion.

(25) *Student* means an individual under 23 years of age who has not completed 4 years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at an institution which is—

(i) A school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof; or

(ii) A school or college or university which has been accredited by a State

or by a State-recognized or nationally recognized accrediting agency or body; or

(iii) A school or college or university not so accredited but whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an accredited institution; or

(iv) A technical, trade, vocational, business, or professional school accredited or licensed by the Federal or a State government or any political subdivision thereof providing courses of not less than 3 months duration, that prepares the individual for a livelihood in a trade, industry, vocation, or profession.

An individual continues to be a student during any interim between school years if the interim does not exceed 4 months and the individual shows to the satisfaction of the Office that he or she has a bona fide intention of continuing to pursue a full-time course of education or training during the semester or other enrollment period immediately after the interim, or during periods of reasonable duration during which, in the judgment of the Office, the individual is prevented by factors beyond his or her control from pursuing his or her education. A student whose 23rd birthday occurs during a semester or other enrollment period is deemed a student until the end of the semester or other enrollment period.

(26) *A year beyond the high school level* means—

(i) The 12-month period beginning the month after the individual graduates from high school, provided he or she has indicated an intention to continue schooling within 4 months of high school graduation, and each successive 12-month period in which there is school attendance or the payment of compensation based on student attendance, or

(ii) If the individual has indicated that he or she will not continue schooling within 4 months of high school graduation, the 12-month period beginning with the month that the individual enters school to continue his or her education, and each successive 12-month period in which there is school

attendance or the payment of compensation based on student status.

(b) *Dependents and survivors.* In addition to basic disability benefits for employees the Act provides in section 8133 that certain monthly benefits shall be payable to certain enumerated survivors of employees who have died from an injury sustained in the performance of duty. Section 8110 of the Act provides that any employee who is found eligible for a basic benefit shall be entitled to have such a basic benefit augmented at a specified rate for certain persons living in the beneficiary's household or who are dependent upon the beneficiary for support. The provisions of 5 U.S.C. 8101, 8110, and 8133 defining the nature of such survivorship or dependency necessary to qualify a beneficiary for a survivor's benefit or augmented benefit shall be applicable as appropriate to the provisions of this part.

[40 FR 6877, Feb. 14, 1975, as amended at 52 FR 10503, Apr. 1, 1987]

INFORMATION IN PROGRAM RECORDS

§ 10.10 Custody of records relating to Federal Employees' Compensation Act matters.

All records, medical and other reports, statements of witnesses and other papers relating to the injury or death of a civil employee of the United States or other persons entitled to compensation or benefits from the United States under the Act and all amendments and extensions thereof, are the official records of the Office and are not records of the agency, establishment or department making or having the care or use of such records.

[52 FR 10504, Apr. 1, 1987]

§ 10.11 Confidentiality of records relating to Federal Employees' Compensation Act matters.

Records of the Office pertaining to an injury or death are confidential, and are exempt from disclosure to the public under section 552(b)(6) of title 5, United States Code. No official or employee of an agency, establishment or department who has investigated or secured statements from witnesses and others pertaining to a claim for benefits, or any person having the care or